



Arizona Medical Board

9545 East Doubletree Ranch Road • Scottsdale, Arizona 85258

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FINAL MINUTES FOR EMERGENCY SUMMARY ACTION TELECONFERENCE MEETING

Held at 3:00 PM on March 26, 2004

9545 E. Doubletree Ranch Road • Scottsdale, Arizona

Board Members

Edward J. Schwager, M.D., Chair
Sharon B. Megdal, Ph.D., Vice Chair
Robert P. Goldfarb, M.D., Secretary
Patrick N. Connell, M.D.
Ronnie R. Cox, Ph.D.
Ingrid E. Haas, M.D.
Tim B. Hunter, M.D.
Becky Jordan
Ram R. Krishna, M.D.
Douglas D. Lee, M.D.
William R. Martin III, M.D.
Dona Pardo, Ph.D., R.N.

Board Counsel

Christine Cassetta, Assistant Attorney General
Dean Brekke, Assistant Attorney General
Ann-Marie Anderson, Assistant Attorney General

Staff

Barry A. Cassidy, Ph.D., P.A.-C, Executive Director
Barbara Kane, Assistant Director / Investigations & Quality Assurance
Gary Oglesby, Chief Information Officer
Lisa McGrane, Legal and Communications Coordinator

CALL TO ORDER

Sharon B. Megdal, Ph.D., Vice Chair, called the meeting to order at 3:00 p.m.

ROLL CALL

The following Board members were present: Patrick N. Connell, M.D., Robert P. Goldfarb, M.D., Tim B. Hunter, M.D., Ingrid E. Haas, M.D., Ram R. Krishna, M.D., Sharon B. Megdal, Ph.D., Dona Pardo, Ph.D., R.N., and Edward J. Schwager, M.D. The following Board members were absent: Ronnie R. Cox, Ph.D., Becky Jordan, Douglas D. Lee, M.D. and William R. Martin III, M.D.

CONSIDRATION OF SUMMARY ACTION

NO.	CASE NO.	COMPLAINANT v PHYSICIAN	LIC. #	BOARD RESOLUTION
1.	MD-04-0392	AMB PAUL A. AUPPERLE, M.D.	30485	Summarily Suspend Dr. Aupperle's license, unless within the next 30 minutes, Dr. Aupperle signs an interim agreement to voluntarily restrict his license.

Dr. Aupperle and his attorney, Mr. Andrew Plattner were present.

Robin King and Phil Smyth, Senior Medical Investigators presented the matter to the Board. Ms. King stated this case came before the Board as a result of a police report on Tuesday, March 23, 2004. On the evening of March 5, 2004 the police stopped Dr. Aupperle for suspected DUI. The police found a pipe used to smoke methamphetamines in the car with a five-foot long plastic tube attached. A field sobriety test was conducted and Dr. Aupperle was arrested for driving under the influence. Dr. Aupperle

CONSIDRATION OF SUMMARY ACTION (Continued) – Paul A. Aupperle, M.D.

then submitted to a Breathalyzer and blood test. Toxicology reports are still pending. Dr. Aupperle admitted to the arresting officers that he used methamphetamines earlier that evening at his residence and stated that he was diagnosed with Attention Deficit Hyperactivity Disorder (ADHD) approximately 18 months prior and is currently treated with Prozac and Adderol.

On March 24, 2004, Ms. King tried to reach Dr. Aupperle at the work numbers provided to the Board. Ms. King was informed that Dr. Aupperle had not worked there for at least 6 to 8 weeks. Ms. King then placed a call to Dr. Aupperle's residence. The person who answered the phone identified himself as Dr. Aupperle, but after Ms. King identified herself, the person on the phone hung up. Ms. King informed Dr. Cassidy of the situation and Dr. Cassidy subsequently issued a Board Order commanding Dr. Aupperle to appear for an investigational interview today, March 26, 2004.

Dr. Aupperle appeared for the investigational interview and met with Senior Medical Investigator Phil Smyth, Senior Compliance Officer Chris Banys and the Board's contracted addictionologist David Greenberg, M.D. Mr. Smyth reported the events of the investigational interview. Mr. Smyth stated that Dr. Aupperle admitted to using drugs in college and medical school, including methamphetamines and cocaine, and admitted to recently using methamphetamines again with the most recent use on the evening March 5, 2004 after returning home from the Phoenix Police Department. Dr. Aupperle stated that he lost his prescription for Adderol and was using methamphetamines to "balance out" the medication he had lost. Dr. Aupperle stated that he only took a minimum amount of methamphetamines to "balance out" because too much made him hyper.

Sharon B. Megdal, Ph.D. clarified that Dr. Aupperle's use of methamphetamines to "balance out" was self-prescribed and not under a physician's supervision.

Dr. Cassidy stated that Dr. Greenberg had serious concerns that Dr. Aupperle was either psychiatrically impaired or impaired by drugs. Dr. Greenberg recommended an immediate cessation of his practice and a 7-10 day inpatient psychiatric and substance abuse evaluation. Dr. Cassidy also stated that the urgency for today's meeting was a result of the lack of coherency that Dr. Aupperle exhibited during the investigational interview and the fact that Dr. Aupperle was scheduled to see patients to discuss x-ray findings in the office this afternoon. Dr. Cassidy added that during the investigational interview, Dr. Aupperle was unable to answer common questions, such as who was the most recent past Vice President of the United States and that he was not oriented to all spheres, according to Dr. Greenberg.

Dr. Megdal asked what Dr. Aupperle's current work environment was like. Mr. Smyth informed the Board that Dr. Aupperle was working at OmniCare on a part-time basis, handling Medicare patients. Ms. Banys verified that Dr. Aupperle was not previously in the MAP program. She further added that Dr. Aupperle was currently under psychiatric care and the psychiatrist prescribed the Adderol for his ADHD.

Tim B. Hunter, M.D. asked if Dr. Aupperle was offered a consent agreement to not practice until he had been fully evaluated. Dr. Cassidy informed the Board that Dr. Aupperle was offered a consent agreement for a practice restriction, but he felt confused by the agreement and did not sign it.

Dr. Megdal asked staff to repeat Dr. Greenberg's recommendations. Ms. Banys stated that Dr. Greenberg suggested that Dr. Aupperle quit practice immediately and enter an intensive 7-10 day inpatient evaluation at one of three Board approved facilities: Rush Presbyterian, Sierra Tucson or Hazelton-Springbrook. Ms. Banys added that several factors needed to be considered during the evaluation, such as Dr. Aupperle's history of drug abuse, his psychiatric stability and his ADHD. Dr. Cassidy added that there were physical manifestations such as Dr. Aupperle's agitation during the investigational interview that was of concern to Dr. Greenberg.

Dr. Megdal asked Mr. Brekke to clarify the Board's option at this point. Mr. Brekke informed the Board that this would be a summary suspension, taking effect immediately, that would start the process for a formal hearing. Dr. Cassidy added that Dr. Aupperle did not contact his attorney until after he felt uncomfortable signing the consent agreement and that his attorney only had a few minutes to review the agreement prior to the summary suspension meeting.

Mr. Plattner addressed the Board and stated that he needed clarification with the effect of the Board's action versus signing a consent agreement. Dr. Megdal questioned the appropriateness of Mr. Plattner's inquiries. Ms. Cassetta stated that she could explain the difference between the effect of the summary suspension and a consent agreement to him after the meeting. Ms. Cassetta added that the Board had the option of issuing a summary suspension that would immediately take effect unless Dr. Aupperle signed the consent agreement by 5:00 p.m. today.

MOTION: Edward J. Schwager, M.D. moved that in view of imminent danger to the public, and based the findings presented, to summarily suspend Dr. Aupperle's license, unless within the next 30 minutes, Dr. Aupperle voluntarily signed an interim agreement to voluntarily restrict his license and enter evaluation.

CONSIDRATION OF SUMMARY ACTION (Continued) – Paul A. Aupperle, M.D.

SECOND: Patrick N. Connell, M.D.

Dr. Hunter asked if the timeframe presented to Dr. Aupperle was too short and proposed giving him until 5:00 p.m. to make a decision. Dr. Schwager stated that he would not accept that as an amendment to the motion based on the information provided that Dr. Aupperle was scheduled to see patients this afternoon.

ROLL CALL VOTE was taken and the following Board members voted in favor of the motion: Patrick N. Connell, M.D., Robert P. Goldfarb, M.D., Tim B. Hunter, M.D., Ingrid E. Haas, M.D., Ram R. Krishna, M.D., Sharon B. Megdal, Ph.D., Dona Pardo, Ph.D., R.N., and Edward J. Schwager, M.D. The following Board members were absent from the meeting: Ronnie R. Cox, Ph.D., Becky Jordan, Douglas D. Lee, M.D. and William R. Martin III, M.D.

VOTE: 8-yay, 0-nay, 0-abstain/recuse, 4-absent

MOTION PASSED.

The meeting adjourned at 3:39 p.m.

[seal]

Barry A. Cassidy, Ph.D., P.A.-C, Executive Director